IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 24091 of 2004

Between:

E. Vijayalakshmi W/o late R. Jagannatha Rao
O/o the Aided Hindu Upper Primary School, Atloori Bazar, narsaraopet, Guntur District

..... PETITIONER

AND

1 The District Educatinal Officer, Guntur, Guntur District
2 The Commissioner and director of School Education, A.P.,

Hyderabad
3 The Government of Andhra Pradesh rep by Secrtary, Education

Department, Secrtariat Buildings, Hyderabad
4 The Correspondent /Manager aided Hindu Upper Primary School

Atloori Bazar, Narasaraopet, Guntur District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more in the nature of Mandamus declaring the impugned proceedings Rc.No. 9301/(C5)/C6/94 dt 9-12-2004 issued by the DEO Guntur as illegal, null and void and consequently direct the respondents to treat that the petitioner has been rightly absorbed into grant in aid vacancy of Grade-II Hindi Pandit in Proceeding dt 20-11-1992 and for the release and pay the petitioners due salaries from 1-4-1992 onwards and continue to pay the same, by holding the action of the respondents in rejecting the petitioners genuine claim for releasing of his salaries from 1-4-1992 besides canceling the proceedings Rc. No. 9419/C5/92 dt 20-11-1992 of the 1st respondents is as illegal, arbitrary, discriminatory and violative of principles of natural justice besides subversive of Articles 14 and 16 of the

Constitution of India and pass such other order or orders

Counsel for the Petitioner:MR.CH.JAGANNADHA RAO

Counsel for the Respondent Nos.1 to 4: GP FOR EDUCATION

The Court made the following :

ORDER:

The petitioner is working as Grade-II Hindi Pandit in a school under the control of 4th respondent. She contends that she was initially appointed as a Grade II Hindi Teacher in the year 1981 and her appointment as an un-aided teacher, was approved by the District Educational Officer through the proceedings dated 17-10-1992. Subsequently when there was a vacancy of aided post, she was appointed in the aided vacancy as a Grade II Hindi Pandit and the said appointment to the aided post was also approved by the District Educational Officer dated 20-11-92. In the said proceedings, the District Educational Officer mentioned that the petitioner is absorbed into grant-in-aid post w.e.f., 1-4-1992. When the petitioner made a representation to the 1st respondent on 9-9-2004 requesting to release the salary in the grant-in-aid post w.e.f. 1-4-1992, the 1st respondent passed the impugned order on 9-12-2004 denying her request for payment of the salary in the aided post w.e.f.1-4-1992 and also canceling the proceedings dated 20-11-1992 approving her appointment in the aided post. The petitioner being aggrieved by the said order, approached this Court through this writ petition seeking to hold the order of the 1st respondent dated 20-11-1992 as illegal and arbitrary and violative of principles of natural justice.

Learned Government Pleader representing the respondents submitted that though initial appointment of the petitioner to the unaided vacancy itself was on the basis of G.O.RT No.86, Education (H) Department, dated 10-3-1983, but on a subsequent verification, it came to light that such a G.O was never issued by the Government at any point of time and therefore it is a fake one. It is further submitted that as the petitioner did not possess the requisite qualification as per the rules, as on the date of the initial appointment to the un-aided post, her appointment itself cannot be treated as valid and therefore the order of approval

dated 20-11-92 is liable to be cancelled.

Learned counsel for the petitioner submitted that in case of two similarly situated candidates, the termination orders were issued and when they approached this Court by way of writ petition in WP 13552 of 1996 it was observed by this Court that the authority can always relax the qualification. It is further submitted that in pursuance of the judgment in W.P.No.13552 of 1996, the 2nd respondent issued G.O.Ms.No.1 Education dated 1.1.1999 directing to regularize the services of those teachers as Hindi Pandit Grade-II in the respective schools and the Commissioner was directed to take necessary action in the matter and to issue necessary instructions to the appointing authority not to repeat such lapses in future.

In this case, it is an undisputed fact that by 1987, the petitioner acquired the requisite qualification as required under the Rules and she also underwent some training at Agra. It is also conceded by the learned Government Pleader that by the date of the order dated 20-11-1992, the petitioner was qualified to hold the post .

In the light of the above circumstances, the order of the 1st respondent dated 9-12-2004, is set aside and the 1st respondent is directed to issue necessary instructions to the concerned for the release of the aided salary to the petitioner w.e.f. 1-4-1992, from which she was absorbed as an aided Hindi Pandit teacher in the 4th respondent school.

Accordingly, this writ petition is allowed. No costs.

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25-4-2005

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Copy to

1 The District Educational Officer, Guntur, Guntur District
2 The Commissioner and director of School Education, A.P.,

Hyderabad
3 The Secretary, Government of Andhra Pradesh,, Education

Department, Secrtariat Buildings, Hyderabad
4 The Correspondent /Manager aided Hindu Upper Primary School

Atloori Bazar, Narasaraopet, Guntur District

5 The GP for Education, High Court buildings, Hyderabad.

6 Two CD copies.